

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

KEISHAWN I. DISMUKE,

Petitioner,

Case Number: 16-13964
HONORABLE AVERN COHN

v.

JOSEPH BARRETT,

Respondent.

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ORDER DENYING PETITIONER'S MOTION TO LIFT STAY (Doc. 21)

I.

This is a habeas case under 28 U.S.C. § 2254. Petitioner Keishawn I. Dismuke ("Petitioner"), a state prisoner proceeding pro se, filed a habeas corpus petition challenging his convictions for assault with intent to do great bodily harm less than murder, malicious destruction of personal property between \$1,000 and \$20,000, and possession of a firearm during the commission of a felony. On May 3, 2018, the Court granted Petitioner's motion to stay these proceedings to allow him to exhaust additional claims in state court. (Doc. 14). Now before the Court is Petitioner's Motion to Lift Stay. (Doc. 21). For the reasons that follow, the motion is DENIED.

II.

The Court stayed proceedings to allow for state court exhaustion and, among other things, required Petitioner to presents his unexhausted claims to the state court within sixty days and to return to this Court to request that the stay be lifted within sixty days of exhausting state court remedies. Petitioner filed a motion for relief from judgment in the trial court within sixty days. The trial court denied the motion. See

5/11/2018 Opinion and Order, *People v. Dismuke*, No. 14-002021-01 (Dkt. 17, Pg. ID 593-96). Petitioner then filed an application for leave to appeal in the Michigan Court of Appeals, which the Court of Appeals denied on October 17, 2018. *See People v. Dismuke*, No. 345126 (Mich. Ct. App. Oct. 17, 2018). It does not appear, however, that Petitioner has pursued review in the Michigan Supreme Court. Petitioner attaches to his motion only the Michigan Court of Appeals' order denying leave to appeal. He does not state that he filed an application for leave to appeal to the Michigan Supreme Court. A search of the Michigan Supreme Court's public database of electronic court records shows no application for leave to appeal having been filed. Petitioner is not entitled to have the case reopened because he has not yet exhausted his state court remedies.

The case remains closed for administrative purposes.

SO ORDERED.

S/Avern Cohn
AVERN COHN
UNITED STATES DISTRICT JUDGE

DATED: 12/11/2018